

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

UNITED STATES POSTAL SERVICE

and

Case 28-CA-175106

RICHARD SANTIAGO

**ORDER<sup>1</sup>**

The Respondent's Motion to Dismiss is denied. The Respondent has failed to demonstrate that the specified complaint allegations are barred by the informal settlement agreement in Case 14-CA-134275<sup>2</sup> or that other allegations exceed the scope of the charge. In addition, the Respondent's contention that some complaint allegations are also the subject of the proceeding in Cases 16-CA-150064 et al. does not constitute grounds for dismissal of the allegations in this proceeding at this time.<sup>3</sup>

Dated, Washington, D.C., August 18, 2017

PHILIP A. MISCIMARRA,	CHAIRMAN
MARK GASTON PEARCE,	MEMBER
LAUREN McFERRAN,	MEMBER

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<sup>1</sup> The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

<sup>2</sup> Although the May 2015 informal settlement agreement prevents the General Counsel from alleging that maintenance of ELM 665.16 violates the Act under the "reasonably construe" prong of *Lutheran Heritage Village-Livonia*, it does not preclude litigation over whether ELM 665.16 has been unlawfully applied, post settlement, to restrict employees in the exercise of their Sec. 7 rights. See *Lutheran Heritage Village-Livonia*, 343 NLRB 646, 647 (2004).

<sup>3</sup> By unpublished order dated today, the Board denies the Respondent's motion to consolidate this proceeding with the proceeding in Cases 16-CA-150064 et al.